

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Comply with the  
Mandates of Senate Bill 1563 Regarding  
Deployment of Advanced Telecommunications  
Technologies.

Rulemaking 03-04-003

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING  
NOTICES OF INTENT TO CLAIM COMPENSATION**

**1. Summary**

This ruling responds to the notices of intent to claim compensation (NOIs) filed in this docket by Disability Rights Advocates (DRA) pursuant to Public Utilities Code, Article 5, Section 1804. Like all intervenors, DRA must demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the Administrative Law Judge (ALJ) or California Public Utilities Commission (Commission) in resolving this proceeding.

**2. Statutory Requirements Relevant to DRA's NOI**

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." It also permits the Commission to accept a late filing where a party could not have reasonably identified issues within 30 days of the prehearing conference. DRA did not file its NOI within 30 days of the Commission prehearing conference. It explained and it is therefore timely. It explains that it was unaware of the

proceeding until shortly before it filed its NOI, and was therefore not a party before that time. This is a reasonable justification for accepting the NOI late.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Section 1802(g) defines “significant financial hardship.”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

### **3. DRA’s NOI**

DRA meets the first definition of customer, as set forth in § 1802(b), because it is an organization whose official mission is to represent the interests of people with disabilities who are utility customers. DRA notes that it is likely to be the only intervenor representing the interests of disabled customers, a group that will be greatly affected by efforts to address and expand access to advanced telecommunications services. Consistent with D.98-04-059, DRA states its constituent members would be underrepresented but for its participation.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. DRA states it expects to be an active party in this proceeding addressing the specific barriers impeding the availability and use of broadband technology by disabled persons. DRA states its commitment to coordinating parties to avoid duplication of effort.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. DRA estimated a total projected budget of \$65,000 for this case, based on proposed hourly rates for its attorneys.

DRA seeks a finding of significant financial hardship. It states that its constituency is a customer class whose economic interest is small when

compared to the costs of effective participation in Commission proceedings. DRA states it does not accept fees from its clients and receives no government funding. It states it relies on advocate fees in litigation to support its operations, as well as donations from individuals, foundations and corporations. Consistent with Section 1804(a)(2)(B), DRA has demonstrated that the customers it represents could not pay the costs of effective participation without experiencing undue hardship, and the economic interests of its individual members are small compared to the costs of effective participation in this proceeding.

**IT IS RULED** that Disability Rights Advocates (DRA) is a customer as that term is defined in § 1802(b). DRA has met the eligibility requirements of § 1804(a) and would experience significant financial hardship if it were to participate in this proceeding without intervenor compensation.

Dated November 22, 2004, at San Francisco, California.

/s/ KIM MALCOLM  
\_\_\_\_\_  
Kim Malcolm  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated November 22, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.